

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x  
4 UNITED STATES OF AMERICA,

Case No. 19-cr-375

5 -vs-

6 LASHAUMBA RANDOLPH,

7 Defendant.

8 -----x  
9 United States Courthouse  
10 White Plains, New York

11 February 2, 2021  
12 2:33 p.m.

13 \*\* VIA VIDEO AND TELECONFERENCE \*\*

14 B e f o r e:

HONORABLE CATHY SEIBEL

15 District Judge

16 A P P E A R A N C E S:

17 AUDREY STRAUSS

18 United States Attorney for the  
19 Southern District of New York

DAVID FELTON

EMILY DEININGER

20 Assistant United States Attorneys

21 SAPONE & PETRILLO, LLP

22 EDWARD V. SAPONE

Attorney for Defendant

23 ALSO PRESENT:

24 SAMUEL BRAVERMAN  
25

1 THE DEPUTY CLERK: Good afternoon, Judge.

2 THE COURT: Hello.

3 THE DEPUTY CLERK: Judge, this matter is United States  
4 v. Randolph. We have on here via video for the government,  
5 Mr. David Felton, and we have on via audio AUSA Emily Deininger.  
6 We have the defendant, Mr. Lashaumba Randolph on via video, and  
7 we have defendant's counsel on, Mr. Edward Sapone, on via video,  
8 and our court reporter, Darby, is on, Judge.

9 THE COURT: All right. Good afternoon, everyone.

10 For some reason I don't see Mr. Randolph. I see just  
11 the icon for him. Let me try to figure out why that is. Oh,  
12 there he is. All right. Good afternoon, everyone.

13 THE DEFENDANT: Good afternoon, Your Honor.

14 THE COURT: Our first order of business ought to be  
15 the fact that we are doing this proceeding by video rather than  
16 in person, and the parties submitted a letter regarding why I  
17 should conclude that the CARES Act permits that. My first step  
18 in that process is to talk to Mr. Randolph.

19 Mr. Randolph, have you spoken to Mr. Sapone about your  
20 right to have this proceeding in person in court? I can't hear  
21 you. I think you are on mute.

22 THE DEFENDANT: Can you hear me?

23 THE COURT: There you go.

24 THE DEFENDANT: Okay. Yes, ma'am, I did.

25 THE COURT: And do you understand that -- sorry about

1 that. My dog sees something outside.

2 Do you understand that you have a right to have this  
3 proceeding in court in person with Mr. Sapone standing beside  
4 you?

5 THE DEFENDANT: Yes, ma'am, I do.

6 THE COURT: And do you understand that because of the  
7 pandemic we can't do that right away, but we could do it in the  
8 future?

9 THE DEFENDANT: Yes, ma'am. I understand.

10 THE COURT: And do you understand that if you would  
11 like to proceed by video, we can do that with your consent?

12 THE DEFENDANT: Yes, ma'am. And I would like to  
13 proceed.

14 THE COURT: Has anyone threatened you or coerced you  
15 or forced you to agree with that?

16 THE DEFENDANT: No, ma'am. They have not.

17 THE COURT: All right. And do you understand that if  
18 down the road you are not happy with how things work out, you  
19 are not going to be able to raise a complaint that your plea was  
20 taken by video means rather than in person?

21 THE DEFENDANT: I understand that. Yes, Your Honor.

22 THE COURT: And do you understand if you need to speak  
23 privately to Mr. Sapone during this proceeding, we will make  
24 sure that that occurs?

25 THE DEFENDANT: Yes, ma'am. Thank you.

1 THE COURT: All right. And, Mr. Sapone, you have  
2 spoken to your client about these issues?

3 MR. SAPONE: Yes, Your Honor, and I am confident that  
4 he fully understands that if he wanted to, we could all be  
5 together. I could be right next to him. He really wants to get  
6 on with it, Your Honor. He prefers to do it this way.

7 THE COURT: All right. And, Mr. Felton, do you think  
8 there is anything further I need to ask Mr. Randolph?

9 MR. FELTON: No, Your Honor.

10 THE COURT: All right. Well, I find that Mr. Randolph  
11 has knowingly, intelligently and voluntarily waived his right to  
12 an in-person sentencing. I also find essentially for the  
13 reasons set forth in Ms. Deininger's letter of January 28th that  
14 the plea cannot be further delayed without serious harm to the  
15 interests of justice given that in-person proceedings are  
16 currently in suspense, and the trial is set for three months  
17 from now, and the parties already may be at work, and in the  
18 short term will have significant pretrial preparation and put in  
19 a lot of resources getting ready for a trial that Mr. Randolph  
20 doesn't want to have.

21 Further, the victims have an interest in getting a  
22 restitution order, if there is to be one, sooner rather than  
23 later; and there doesn't seem to be any need for either side to  
24 either engage in unnecessary interstate travel during the  
25 pandemic or have witnesses do so to prepare for a trial that

1 both sides have agreed to avoid. So I do find that the CARES  
2 Act permits us to go forward by video.

3 With that, let me ask Mr. Clark to place Mr. Randolph  
4 under oath.

5 LASHAUMBA RANDOLPH, having been duly sworn, testified as  
6 follows:

7 THE DEFENDANT: Yes, sir.

8 THE DEPUTY CLERK: Okay. Please state your full name  
9 for the record and spell it out slowly.

10 THE DEFENDANT: Lashaumba Randolph. L-A-S-H-A-  
11 U-M-B-A, Randolph, R-A-N-D-O-L-P-H.

12 THE COURT: Mr. Randolph, do you understand that you  
13 are now under oath, and if you answer any of my questions  
14 falsely, your false answers could later be used against you in a  
15 separate prosecution for perjury or making a false statement?

16 THE DEFENDANT: Yes, ma'am, I do.

17 THE COURT: How old are you?

18 THE DEFENDANT: Forty-five.

19 THE COURT: How far did you go in school?

20 THE DEFENDANT: Four-year degree, bachelor's.

21 THE COURT: So you are able to --

22 THE DEFENDANT: I am sorry. Excuse me, Your Honor.  
23 That's my dog. She just opened the door and came in the room.  
24 Yeah. She's got a mind of her own.

25 THE COURT: That's all right. Don't worry. As long

1 as she is not distracting you, it's okay with me.

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: All right. So you said you have a  
4 four-year degree?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: So you are able to read, write, speak and  
7 understand English?

8 THE DEFENDANT: Yes, I am. Yes, I can. Yes, ma'am.

9 THE COURT: Are you now, or have you recently been,  
10 under the care of a medical doctor?

11 THE DEFENDANT: Yeah, I was under -- yes, ma'am. I  
12 mean, I -- I mean, like general care or like not -- no mental  
13 issues or anything of that nature. No. Not like that.

14 THE COURT: All right. Well --

15 THE DEFENDANT: Like general care physician? Yeah. I  
16 get a physical every year. Yes, Your Honor.

17 THE COURT: Okay. Beyond, you know, going for your  
18 annual checkup, are you being treated for any sorts of  
19 conditions or illnesses?

20 THE DEFENDANT: Well, I am pre-diabetic right now, but  
21 I am controlling that with diet and exercise, actually.

22 THE COURT: Okay. So you are not on any medication?

23 THE DEFENDANT: No. I am not.

24 THE COURT: All right. And you anticipated my next  
25 question, which is: Are you now or have you recently been under

1 the care of a mental health professional?

2 THE DEFENDANT: No, ma'am. I have not.

3 THE COURT: All right. Have you ever been treated for  
4 any mental illness or any type of addiction?

5 THE DEFENDANT: No, ma'am. I haven't.

6 THE COURT: In the past 24 hours, have you taken any  
7 drugs, medicine or pills or drunk any alcohol?

8 THE DEFENDANT: No, ma'am. I don't.

9 THE COURT: Is your mind clear today?

10 THE DEFENDANT: Yes, it is.

11 THE COURT: Are you feeling all right?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: All right. Now I understand you want to  
14 plead guilty to Count Two of Indictment 19-cr-375, which charges  
15 conspiracy to commit wire fraud; is that correct?

16 THE DEFENDANT: Correct. Yes, ma'am.

17 THE COURT: Have you had a full opportunity to discuss  
18 your case with your lawyer and to discuss the consequences of  
19 pleading guilty?

20 THE DEFENDANT: Yes, I have.

21 THE COURT: Are you satisfied with Mr. Sapone and his  
22 representation of you?

23 THE DEFENDANT: Yes, I am.

24 THE COURT: Does either counsel have any doubt as to  
25 the defendant's competence to plead at this time?

1 MR. FELTON: No, Your Honor.

2 MR. SAPONE: No, Your Honor.

3 THE COURT: On the basis of Mr. Randolph's responses  
4 to my questions, my observations of his demeanor, and the views  
5 of counsel, I found that he is fully competent to enter an  
6 informed plea at this time.

7 Before I take your plea, though, Mr. Randolph, I am  
8 going to ask you questions in order to satisfy myself that you  
9 are guilty and that you fully understand the consequences of  
10 your plea.

11 First, I am going to describe certain rights you have  
12 under the Constitution and laws of the United States, which  
13 rights you will be giving up if you plead guilty. Please listen  
14 carefully. If I say anything that you don't understand, stop  
15 me, and either Mr. Sapone or I will explain it further. Okay?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: You have the right to be represented by  
18 counsel at trial and at every stage of the case, and if you  
19 could not afford counsel, counsel would be appointed to  
20 represent you for free. Do you understand that?

21 THE DEFENDANT: Yes, ma'am. I do.

22 THE COURT: You have a right to a speedy and public  
23 trial by a jury on the charges against you. Do you understand  
24 that?

25 THE DEFENDANT: Yes, ma'am. I do.



1 THE COURT: If there were a trial, you would be  
2 presumed innocent, and the government would be required to prove  
3 you guilty by competent evidence and beyond a reasonable doubt.  
4 You would not have to prove you were innocent at a trial. Do  
5 you understand that?

6 THE DEFENDANT: Yes, ma'am. I do.

7 THE COURT: If there were a trial, a jury composed of  
8 12 people selected from this district would have to find  
9 unanimously that you were guilty. In other words, you could  
10 only be found guilty if all 12 agreed that you were guilty. Do  
11 you understand that?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: If there were a trial, you would have the  
14 right to see and hear all of the witnesses against you, and your  
15 lawyer could cross-examine them. You would have the right to  
16 have your lawyer object to the government's evidence and offer  
17 evidence on your behalf if you so desired, and you would have  
18 the right to have subpoenas issued to compel witnesses to come  
19 to court if you wanted to call them to testify in your defense.  
20 Do you understand that?

21 THE DEFENDANT: Yes, ma'am. I do.

22 THE COURT: If there were a trial, you would have the  
23 right to testify if you wanted to, but no one could force you to  
24 testify if you did not want to. Further, no inference or  
25 suggestion of guilt could be drawn if you chose not to testify

1 at trial. In other words, the jury would be told that it could  
2 not hold it against you if you chose not to testify. Do you  
3 understand that?

4 THE DEFENDANT: Yes, ma'am. I do.

5 THE COURT: Do you understand that by pleading guilty  
6 today, you will be giving up all the rights I have described  
7 except the right to counsel?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Do you understand that except for the  
10 right to counsel, you are waiving these rights going forward and  
11 giving them up for the rest of the case?

12 THE DEFENDANT: Yes, ma'am. I do.

13 THE COURT: Do you understand you will have no trial,  
14 and you will be found guilty based just on your plea of guilty?

15 THE DEFENDANT: I understand. Yes, ma'am.

16 THE COURT: Do you understand it's completely your  
17 choice whether to plead guilty or go to trial?

18 THE DEFENDANT: Yes, I do.

19 THE COURT: Do you understand if you wanted to change  
20 your mind right now and decide not to plead guilty, that would  
21 be allowed?

22 THE DEFENDANT: Yes, I understand.

23 THE COURT: All right. You have received a copy of  
24 the indictment, which is numbered 19-cr-375?

25 THE DEFENDANT: Yes, I did.

1 THE COURT: Have you read it?

2 THE DEFENDANT: Yes, I did.

3 THE COURT: And did you discuss it with Mr. Sapone?

4 THE DEFENDANT: I did.

5 THE COURT: Did you tell him everything you know about  
6 the case?

7 THE DEFENDANT: Yes, I did.

8 THE COURT: Do you understand you are charged in Count  
9 Two with participating in a conspiracy to commit wire fraud?

10 THE DEFENDANT: Yes, ma'am. I understand.

11 THE COURT: Mr. Felton, what are the elements of that  
12 offense?

13 MR. FELTON: Your Honor, the elements of the offense  
14 are: First, that an agreement or understanding to commit wire  
15 fraud existed between two or more persons; and second, that each  
16 defendant knowingly became a member of the charged conspiracy.  
17 The government would also need to prove by a preponderance of  
18 the evidence that venue was appropriate in the Southern District  
19 of New York.

20 THE COURT: And what are the elements of wire fraud?

21 MR. FELTON: One moment, Your Honor.

22 THE COURT: I think I know what they are.

23 MR. FELTON: Your Honor, I apologize. My document on  
24 the computer is freezing when I am trying to load it, and I  
25 don't want to speak inaccurately in response to the Court's

1 question.

2           THE COURT: All right. I think I would be shooting  
3 from the hip as well. I believe it is a scheme or artifice to  
4 defraud or to obtain money or property by means of false or  
5 fraudulent pretenses, representations or promises. Second, that  
6 the defendant knowingly and willfully participated in the scheme  
7 with intent to defraud, and that a facility in interstate  
8 commerce was used to accomplish the fraud.

9           Those are the elements of completed wire fraud. Here,  
10 the -- here, the charge is conspiracy to commit wire fraud.  
11 Just give me one second, though, and let me check my work on  
12 that.

13           MR. FELTON: Your Honor, I have the document up, and  
14 that sounds accurate to me. I didn't quite catch what you said  
15 for the third element, but I have that the defendant used a wire  
16 communication in furtherance of the scheme.

17           THE COURT: All right. Another way of putting what I  
18 said, I think.

19           Mr. Randolph, do you understand if you chose not to  
20 plead guilty, the government would have to prove each part or  
21 element of that charge beyond a reasonable doubt at trial?

22           THE DEFENDANT: Yes, ma'am. I do.

23           THE COURT: All right. Now let's talk about the  
24 possible penalties. Do you understand that Count Two carries a  
25 maximum prison term of 20 years, a maximum supervised release

1 term of three years, a maximum fine of the greater of \$250,000  
2 or twice the gross gain or loss from the offense, plus a  
3 mandatory \$100 special assessment?

4 THE DEFENDANT: Yes, ma'am. I understand.

5 THE COURT: Do you also understand that I must order  
6 restitution to any person or entity injured as a result of your  
7 criminal conduct?

8 THE DEFENDANT: I understand. Yes, ma'am.

9 THE COURT: Do you understand that supervised release  
10 refers to a period of monitoring and supervision following a  
11 prison term?

12 THE DEFENDANT: Yes, ma'am. I do.

13 THE COURT: There are terms and conditions of  
14 supervised release with which you must comply, and if you do not  
15 comply with them, you could be returned to prison without a jury  
16 trial. Do you understand that?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Do you understand that if you violate the  
19 terms or conditions of supervised release and are returned to  
20 prison, the new prison term could be for part or all of the term  
21 of supervised release, and you would not get credit for time  
22 previously served in prison on your sentence or for time  
23 previously served on supervised release?

24 THE DEFENDANT: Yes, ma'am. I understand.

25 THE COURT: Are you a United States citizen?

1 THE DEFENDANT: Yes, I am.

2 THE COURT: Do you understand that your guilty plea  
3 may deprive you of valuable civil rights such as the right to  
4 vote, the right to hold public office, the right to serve on a  
5 jury, the right to hold certain professional licenses, and the  
6 right to possess any kind of firearm?

7 THE DEFENDANT: Yes, I understand.

8 THE COURT: Do you understand that there are  
9 sentencing guidelines that I must consider in determining an  
10 appropriate sentence in your case?

11 THE DEFENDANT: Yes, I understand, ma'am.

12 THE COURT: Have you talked to Mr. Sapone about the  
13 guidelines?

14 THE DEFENDANT: Yes, I did.

15 THE COURT: Do you understand that I will not be able  
16 to determine the relevant sentencing guidelines range for your  
17 case until after a presentence report has been completed by the  
18 probation office, and you and the government have had a chance  
19 to challenge any of the facts reported by the probation office?

20 THE DEFENDANT: I understand. Yes, ma'am.

21 THE COURT: Do you further understand that even after  
22 I determine what guidelines range applies to your case, the  
23 guidelines provide me with the ability to depart from the range  
24 calculated under the guidelines and to impose a sentence that is  
25 above or below that range?

1 THE DEFENDANT: I understand. Yes, ma'am.

2 THE COURT: After I determine the appropriate  
3 guideline range, and after I determine whether under the  
4 guidelines an upward or downward departure from that range is  
5 called for, I will then determine the proper sentence in your  
6 case having in mind, not only the sentencing guidelines, but  
7 each of the factors set forth in Title 18 United States Code  
8 Section 3553(a), a statute that requires me to take into account  
9 a number of factors in addition to the sentencing guidelines in  
10 considering the appropriate sentence for your case. Do you  
11 understand that?

12 THE DEFENDANT: Yes, ma'am. I do.

13 THE COURT: So even after I determine the guidelines  
14 range for your case, I must also consider these other factors,  
15 and I might settle on a sentence higher or lower than what the  
16 guidelines recommend. Do you understand that?

17 THE DEFENDANT: I understand. Yes, ma'am.

18 THE COURT: Do you understand there is no parole in  
19 the federal system, and you will not be released early on  
20 parole?

21 THE DEFENDANT: I understand that. Yes, ma'am.

22 THE COURT: Do you understand that if anyone has  
23 attempted to estimate or predict what your sentence will be,  
24 their estimate or prediction could be wrong?

25 THE DEFENDANT: I understand. Yes, ma'am.

1 THE COURT: No one, not even your lawyer or the  
2 government's lawyer, can or should give you any assurance as to  
3 what your sentence will be. I am going to decide your sentence,  
4 and I'm not going to do that now. I can't do it until after the  
5 probation office completes the presentence report, and I have  
6 ruled on any challenges to the report, calculated the guidelines  
7 range, determined whether there are grounds to depart up or down  
8 from that range, and considered all the statutory factors. So  
9 nobody, not even I, can predict what I am going to decide in the  
10 future to be the appropriate sentence in your case. Do you  
11 understand all that?

12 THE DEFENDANT: Yes, ma'am. I do.

13 THE COURT: Do you also understand that if your  
14 sentence is different from what your lawyer or anyone else told  
15 you it might be, or if it's different from what you expect, or  
16 if it's different from what's contained in your plea agreement  
17 with the government, you will still be bound by your guilty  
18 plea, and you will not be allowed to withdraw your guilty plea?

19 THE DEFENDANT: I understand. Yes, ma'am.

20 THE COURT: All right. Now I have been given a plea  
21 agreement, which is signed by the government. It doesn't look  
22 like it's been signed by Mr. Sapone or Mr. Randolph. It's dated  
23 January 21st, 2021. Is there a signed version somewhere?

24 MR. SAPONE: This is Ed Sapone, Your Honor. There  
25 certainly is, and the way I would suggest we handle it is either



1 we could give Your Honor permission, if you chose to do that, to  
2 sign, or I could get that copy, dig it up and get it to you  
3 ASAP.

4 THE COURT: All right. Well, why don't you just send  
5 the fully-signed copy to Mr. Clark, and we will have it on for  
6 our file? It doesn't get publicly filed, anyway. Let me see if  
7 I know how to screen share.

8 Walter, you are going to have to teach me. How do  
9 I -- can I screen share on here? You're on mute.

10 THE DEPUTY CLERK: Judge, let me make you a presenter,  
11 and that should be able to let you do that. Just give me one  
12 moment.

13 THE COURT: Okay.

14 (Pause)

15 THE DEPUTY CLERK: Judge, I don't know why. I don't  
16 know if it's because I am using my phone. I know if I was doing  
17 it on my computer, I could do it. I'm just trying to figure out  
18 how I can do it via my phone, Judge.

19 THE COURT: And you can't -- you are on your phone, so  
20 you can't pull up the plea agreement?

21 THE DEPUTY CLERK: That is correct, Judge.

22 THE COURT: I do want to be able to show it to  
23 Mr. Randolph.

24 THE DEPUTY CLERK: I might have an solution, Judge.  
25 Let me see if I can go on the computer and -- just give me one

1 moment.

2 THE DEFENDANT: Your Honor, if it would help you, I  
3 mean, I should still have it in my email when they sent it to  
4 me. Would you like me to read it or --

5 THE COURT: Well, I want to make sure that the one you  
6 have and the one that we have are the same one.

7 THE DEFENDANT: All right.

8 THE COURT: In the meantime, while we are working on  
9 that, let ask you this.

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: The plea agreement that you have, is it  
12 dated January 21st, 2021?

13 THE DEFENDANT: Let me go into my email and pull it up  
14 now.

15 THE COURT: Okay.

16 THE DEFENDANT: Just one moment.

17 THE COURT: And, Mr. Sapone, maybe you can tell us  
18 if -- I don't know if you've sent one or more versions to your  
19 client, but did you send him the January 21 version?

20 MR. SAPONE: Yes. So we sent it to him last night,  
21 Your Honor, and you should know that as you were speaking with  
22 him a few moments ago, I re-sent it. So he should have it  
23 twice.

24 THE COURT: All right. And --

25 THE DEFENDANT: Yes. Yes, ma'am.

1 THE COURT: Is that the first plea agreement that's  
2 gone his way or have there been earlier versions?

3 MR. SAPONE: Well --

4 THE COURT: I only ask because, you know, what's been  
5 happening in a couple of pleas lately is the lawyer and client  
6 have gone over an earlier version of the agreement in detail,  
7 and this most recent one they only went over the changes. Is  
8 that what happened here or have you gone over this one in  
9 paragraph-by-paragraph detail?

10 MR. SAPONE: Right. So we went over this one in  
11 recent time. This is the one and --

12 THE COURT: Okay.

13 MR. SAPONE: -- so he hasn't had any other version.  
14 He had this many times over, actually.

15 THE DEFENDANT: Correct. I do.

16 THE COURT: All right. So I see Mr. Randolph is  
17 holding a paper plea agreement. Is it dated January 21st of  
18 this year?

19 THE DEFENDANT: Yes, ma'am. It is.

20 THE COURT: All right. And did you read this  
21 agreement in full?

22 THE DEFENDANT: Yes, I did.

23 THE COURT: Did you discuss it with Mr. Sapone in  
24 full?

25 THE DEFENDANT: I did.

1 THE COURT: And did you sign a version of it and send  
2 it back to Mr. Sapone?

3 THE DEFENDANT: Yes, ma'am. I did.

4 THE COURT: All right. And do you fully understand  
5 the agreement?

6 THE DEFENDANT: Yes, ma'am. I do.

7 THE COURT: You discussed everything in it with your  
8 lawyer?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: And, Mr. Sapone, you discussed everything  
11 in the agreement with your client?

12 MR. SAPONE: Yes, I did, Your Honor.

13 THE COURT: Do you believe he fully understands the  
14 agreement?

15 MR. SAPONE: Yes, I do.

16 THE COURT: And, Mr. Randolph, do you believe you  
17 fully understand the agreement?

18 THE DEFENDANT: Yes, ma'am. I do.

19 THE COURT: All right. Is the written agreement dated  
20 January 21st, does that written agreement contain the complete  
21 understanding between and you the government concerning your  
22 case?

23 THE DEFENDANT: Yes, ma'am. I believe it does.

24 THE COURT: Is there any promise, agreement,  
25 understanding or deal that you have with the government that's

1 not written down in that plea agreement?

2 THE DEFENDANT: Not to my knowledge. No, ma'am.

3 THE COURT: All right. So the plea agreement is the  
4 whole deal, and there is no side deal?

5 THE DEFENDANT: No, ma'am.

6 THE COURT: Well, am I correct that the plea agreement  
7 is the entire deal, and there is no side deal?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: That's correct? Okay.

10 Has anyone threatened you or forced you or coerced you  
11 to plead guilty or to enter into the plea agreement?

12 THE DEFENDANT: No, ma'am. They have not.

13 THE COURT: Besides the government's promises in the  
14 plea agreement, has anyone promised you anything or offered you  
15 any inducements to plead guilty or to enter into the plea  
16 agreement?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: Has anyone made a promise to you as to  
19 what your sentence would be?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: Now, I see that the plea agreement  
22 contains agreements or stipulations regarding the sentencing  
23 guidelines. Do you understand that those agreements regarding  
24 the guidelines are binding on you, and they are binding on the  
25 government, but they are not binding on me?

1 THE DEFENDANT: Yes, ma'am. I understand.

2 THE COURT: I will, of course, consider what you and  
3 the government have agreed to in the plea agreement, but I will  
4 be making my own determination of your guidelines range. Do you  
5 understand that?

6 THE DEFENDANT: Yes, ma'am. I understand.

7 THE COURT: And do you further understand that under  
8 the plea agreement, you are giving up your right to appeal or  
9 otherwise attack or challenge the sentence as long as I sentence  
10 you within or below the stipulated guidelines range of 51 to  
11 63 months' imprisonment?

12 THE DEFENDANT: Yes, ma'am. I understand.

13 THE COURT: And do you further understand that under  
14 the plea agreement, you are giving up your right to appeal or  
15 otherwise attack or challenge any fine of \$200,000 or less, any  
16 forfeiture amount of \$9,500 or less, and any special assessment  
17 of \$100 or less?

18 THE DEFENDANT: Yes, ma'am. I understand.

19 THE COURT: And do you further understand that the  
20 only exception to these waivers is that you do retain the right  
21 to bring claims of ineffective assistance of counsel?

22 THE DEFENDANT: I understand. Yes, ma'am.

23 THE COURT: All right. Mr. Sapone, do you know of a  
24 valid defense that would prevail at trial or any reason why your  
25 client should not be permitted to plead guilty?

1 MR. SAPONE: I do not, Your Honor, and he wishes to  
2 accept full responsibility.

3 THE COURT: Do you believe there is an adequate  
4 factual basis to support the plea?

5 MR. SAPONE: Yes, Your Honor.

6 THE COURT: Mr. Felton, do you believe there is an  
7 adequate factual basis to support the plea?

8 MR. FELTON: Yes, I do, Your Honor.

9 THE COURT: Could you please summarize what the  
10 government would prove if the case went to trial?

11 MR. FELTON: Yes, Your Honor. My computer issues are  
12 behind me, so I will be able to read from what I have prepared.

13 If this case were to proceed to trial, the government  
14 would prove beyond a reasonable doubt that Randolph conspired  
15 with others, including co-defendant Marvin Williams, to  
16 willfully and knowingly commit wire fraud. Evidence would show  
17 that Randolph provided fraudulent VIN stickers and fake car  
18 titles to Williams, and that Randolph's conspirators, including  
19 Williams, made misrepresentations regarding stolen cars to car  
20 purchasers.

21 The government would expect to present the following  
22 evidence, among other things: Signal phone messages between  
23 Williams and Randolph in which, among other things, Randolph  
24 agreed to and does provide Williams with a fake title and  
25 fraudulent VIN label for a stolen Dodge Charger Hellcat.

1 Additional signal messages show Randolph following  
2 through with Randolph sending Williams photos of FedEx and  
3 mailing receipts for the Dodge Charger Hellcat, fake title and  
4 VIN. As victim and cooperating witnesses would testify, this  
5 Dodge Charger Hellcat, for which Randolph provided fraudulent  
6 paperwork, was sold by Williams in the Bronx to a car-buyer  
7 victim to whom Williams made misrepresentations about the stolen  
8 car's history and status.

9 In the signal phone messages between Williams and  
10 Randolph, they also discuss a variety of additional fake titles  
11 and fraudulent VIN labels for Randolph to provide Williams for  
12 stolen cars, including a Ford F-150, a Land Rover Range Rover, a  
13 Lamborghini and a Ford Expedition XLT. In the signal phone  
14 messages Williams repeatedly asks Randolph to quote-unquote  
15 "decode VINs" for stolen cars where Williams gives Randolph the  
16 original VIN; tells Randolph that they need to be decoded and  
17 asks Randolph to create fraudulent VIN labels with new numbers.  
18 Randolph agrees and repeatedly sends screen shots to Williams of  
19 Carfax pages for the stolen cars with new altered fraudulent  
20 VINs.

21 In the signal phone messages they also discuss fake  
22 titles that Williams received from a different source. Here,  
23 Williams noted that they had been working out in South Dakota  
24 for months now, and Randolph responded "Nice." And later told  
25 Williams to be careful and don't mess up a good thing, and



1 Randolph added, "I can get other states, then."

2           They discuss Randolph putting fake names such as  
3 Navrin Williams, Oscar Williams, and Narvin Williams instead of  
4 "Marvin Williams" on mailings Randolph sends to Marvin Williams.

5           In the signal phone messages there are numerous FedEx  
6 screen shots, packaged photos and receipts of items mailed  
7 between Williams and Randolph, including from an entity  
8 controlled by Randolph called Randolph Holdings. In the signal  
9 phone messages Williams also provides Randolph with his banking  
10 information, and the next day Randolph tells Williams that he  
11 sent a \$7,000 wire to Williams. So that's some of the evidence  
12 from the signal messages.

13           The government would also expect to present testimony  
14 from a cooperating witness that he was introduced to Randolph by  
15 a Florida-based source of stolen cars; that he received numerous  
16 fake VIN labels to re-VIN cars and fake titles from Randolph  
17 through the mail, and he fraudulently registered approximately a  
18 half dozen cars for Randolph with the South Dakota DMV.

19           The government would also expect to present recovered  
20 evidence from a search of Williams' residence, including  
21 mailings from Randolph, including numerous fraudulent car  
22 titles, which Randolph and Williams discuss in phone messages,  
23 and which Williams would testify he received from Randolph, and  
24 a letter from Randolph to Williams in which Randolph writes,  
25 "You or your people did the paperwork for the two Ford trucks."

1 And Randolph further writes that a coconspirator of theirs is in  
2 a situation right now, and he wants to keep you a secret.

3           Randolph also writes, "I don't really care. I just  
4 need those titles!" And Randolph also writes, "Maybe we can help  
5 each other!!!!"

6           The government would also expect to present bank  
7 records and Cash App records showing that Randolph was paid  
8 \$9,500 from Williams via Cash App. Randolph's Cash App profile  
9 lists Randolph's full name and includes a recognizable  
10 photograph of Randolph in an orange shirt.

11           Additionally, the government would also expect to  
12 present recordings and transcripts of communications intercepted  
13 pursuant to a court-authorized wiretap of a phone used by  
14 Williams in which, among other things, they discuss a variety of  
15 fake titles and fraudulent VIN stickers for Randolph to provide  
16 Williams for stolen cars, including a Ford F-150 SuperCrew and a  
17 Chevrolet Corvette. Both of these cars, for which Randolph  
18 provided the fraudulent paperwork, were sold by Williams to  
19 multiple car-buyer victims to whom Williams made  
20 misrepresentations about the stolen cars' history and status.  
21 Williams even drove the Corvette in White Plains, New York.

22           Randolph and Williams were also intercepted discussing  
23 Randolph sending Williams counterfeit titles and paperwork from  
24 additional states so that they can spread it around a little bit  
25 and try something else out and mix it up so that the false

1 paperwork would seem less suspicious to the South Dakota DMV.

2           The government would also expect to present the  
3 contents of a phone used by Randolph in which, among other  
4 things, Randolph has search and browser history for how to clean  
5 titles, how to clean car titles off, how to clean ink off legal  
6 documents, and for how to clear title.

7           Among the other evidence would include additional fake  
8 titles and VIN labels recovered from victims and stolen  
9 vehicles, photographs and other evidence regarding recovered  
10 stolen cars, law enforcement testimony regarding physical  
11 surveillance, toll records, and a common call analysis showing  
12 Randolph was in contact with both Williams and co-defendant  
13 Cliphaz Belfon, South Dakota Department of Motor Vehicles  
14 records, and cell phone location data.

15           Collectively, the evidence would show that Randolph  
16 participated in the purchase, sale or transportation of stolen  
17 cars worth at least \$550,000, but less than \$1.5 million.

18           Additionally, bank records and text message  
19 communications between coconspirators would show that Williams  
20 opened and maintained a bank account in the Bronx, New York,  
21 which at least one coconspirator made wire transfers from a bank  
22 in Connecticut to fund the purchase of stolen cars in  
23 furtherance of the conspiracy.

24           THE COURT: Thank you, Mr. Felton.

25           Mr. Randolph, can you tell me --

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Can you tell me in your own words what you  
3 did that makes you guilty?

4 MR. SAPONE: Your Honor, this is Ed Sapone.  
5 Mr. Randolph and I have prepared his allocution, and he has a  
6 written version, which are his words with the assistance of  
7 counsel. Could he read from his notes?

8 THE COURT: That's fine with me as long as you and he  
9 went over it, and he adopts everything that's on the piece of  
10 paper.

11 Mr. Randolph, it's fine with me if you want to read  
12 the summary that you prepared with your lawyer as long as you  
13 understand that these are your words and, you know, it all needs  
14 to be true.

15 THE DEFENDANT: Yes, ma'am. I understand.

16 THE COURT: Okay. Go ahead.

17 THE DEFENDANT: In 2018, I knowingly and willfully  
18 agreed with others to engage in a scheme to defraud vehicle  
19 purchasers in Westchester County, New York and elsewhere by  
20 misrepresenting to them the origins and legal status of  
21 identifying information on stolen vehicles. Some of these  
22 misrepresentations were made during telephone calls and text  
23 messages, as well as online advertisements.

24 As part of this scheme, I assisted in providing false  
25 vehicle identification numbers, titles and bills of sales used

1 in connection with the sale of stolen vehicles.

2 At the time that I did this, I knew that they were  
3 false. I knew that what I did was wrong and illegal, and for  
4 that, I am eternally sorry. And I know I let my family down,  
5 and I know I let myself down and my area down, so I want to  
6 wholeheartedly apologize for that. And at this time, I'm sorry.

7 THE COURT: All right. Thank you, Mr. Randolph.

8 Did anybody threaten you or coerce you or force you to  
9 be involved in this activity?

10 THE DEFENDANT: No, ma'am. They did not.

11 THE COURT: Does either lawyer think I need to ask any  
12 further questions about the facts?

13 MR. FELTON: No, Your Honor.

14 MR. SAPONE: No, Your Honor.

15 THE COURT: All right. Let me ask you formally now,  
16 Mr. Randolph -- oh, actually, before I get to that, do you admit  
17 the forfeiture allegations and agree to forfeit the proceeds of  
18 your participation -- sorry. Let me try that again.

19 Do you admit to the forfeiture allegations regarding  
20 Count Two and agree to forfeit to the government the proceeds of  
21 the offense?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: All right. Now I will ask you formally:  
24 How do you plead to the charge in Count Two of Indictment 19-cr-  
25 375, guilty or not guilty?

1 THE DEFENDANT: I plead guilty, Your Honor.

2 THE COURT: Are you, in fact, guilty of that charge?

3 THE DEFENDANT: Yes, ma'am, I am.

4 THE COURT: Are you pleading guilty voluntarily and of  
5 your own free will?

6 THE DEFENDANT: Yes, I am.

7 THE COURT: Because you acknowledge that you are  
8 guilty as charged in Count Two, because I find you know your  
9 rights and are waiving them voluntarily with an understanding of  
10 the consequences of your plea, including the potential sentences  
11 that may be imposed, and because I find your plea is entered  
12 knowingly and voluntarily, and is supported by an independent  
13 basis in fact containing each of the essential elements of the  
14 offense, I accept your guilty plea and adjudge you guilty of  
15 that offense.

16 As I mentioned, the probation office is going to  
17 prepare a presentence report to assist me in sentencing you.  
18 You will be interviewed by the probation office in connection  
19 with that report. You can, and should, have Mr. Sapone with you  
20 during that interview. If you say anything to Probation, the  
21 information you give must be truthful and accurate. The report  
22 will be important to my decision as to what your sentence will  
23 be. You and your lawyer have the right and will have the  
24 opportunity to study the report, to challenge it, and to comment  
25 on it before I sentence you. So it's important that when the

1 presentence report is issued, you read it carefully and discuss  
2 it in detail with Mr. Sapone before your sentencing date. If  
3 there are any mistakes, inaccuracies or other issues in the  
4 report, make sure you point them out to him so that he can point  
5 them out to me before I sentence you; and you and he will also  
6 both have the right to speak on your behalf before I impose the  
7 sentence, and the date for that will be?

8 THE CLERK: May 20th, 2021, at 3:30 p.m.

9 THE COURT: Does that work for everybody?

10 MR. SAPONE: One moment, Your Honor, please.

11 MR. FELTON: Yes, Your Honor.

12 THE COURT: I assume we will be done with Mr. Klein's  
13 trial by then; and even if we're not, our trial day only goes  
14 until 2:30.

15 MR. SAPONE: So this is Ed, Your Honor. I am free  
16 because I had his trial from the 10th for a few weeks, so I'm  
17 free all that time.

18 THE COURT: All right. Excellent. No application as  
19 to bail? Bail is to be continued?

20 MR. FELTON: Yes, Your Honor.

21 THE COURT: All right. Mr. Randolph, do you  
22 understand that all of the conditions on which you have been  
23 released up until now continue to apply?

24 THE DEFENDANT: Yes, ma'am. I do.

25 THE COURT: And do you understand the consequences can

1 be very serious if you violate any of those conditions?

2 THE DEFENDANT: Yes, ma'am. I do.

3 THE COURT: And do you further understand that if you  
4 fail to appear for sentencing, you will be guilty of a separate  
5 crime called bail jumping for which you could be sentenced to  
6 imprisonment and a fine on top of whatever sentence you are  
7 going to receive for the offense to which you have just pleaded  
8 guilty?

9 THE DEFENDANT: I understand. Yes, ma'am.

10 THE COURT: All right. Mr. Sapone, can you contact  
11 Probation in the next week or so and arrange for that interview  
12 to occur within the next four weeks?

13 MR. SAPONE: Yes, I will, Your Honor.

14 THE COURT: And, Mr. Felton, can you make sure that  
15 Probation gets the government's summary of the facts within the  
16 next two weeks?

17 MR. FELTON: Yes, Your Honor.

18 THE COURT: And can you both remember to send  
19 hardcopies of your sentencing submissions to chambers?

20 MR. FELTON: Yes, Your Honor.

21 THE COURT: All right. Anything else we need to do  
22 this afternoon?

23 MR. FELTON: Not from the government. Thank you, Your  
24 Honor.

25 MR. SAPONE: No. Thank you, Your Honor.



1           THE COURT: All right. Thank you all. Stay healthy,  
2 everybody. See you in the springtime.

3           MR. SAPONE: You, too, Your Honor. Thank you.

4           (Time noted: 3:15 p.m.)

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